
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Gregory Schwartz

Write the full name of each plaintiff.

____ CV ____
(Include case number if one has been assigned)

-against-

Middletown City School District; Richard DelMoro,
former Superintendent of Middletown City
School District,

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

EMPLOYMENT DISCRIMINATION COMPLAINT

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. PARTIES**A. Plaintiff Information**

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Gregory	R.	Schwartz
First Name	Middle Initial	Last Name
5374 Sarapointe Drive		
Street Address		
Sarasota	FL	34232
County, City	State	Zip Code
(917) 328-4772	gschwartz23@gmail.com	
Telephone Number	Email Address (if available)	

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1:	Middletown City School District		
	Name		
	223 Wisner Avenue		
	Address where defendant may be served		
	Orange, Middletown	NY	10940
	County, City	State	Zip Code
Defendant 2:	Richard DelMoro, Former Superintendent of Middletown School Dist.		
	Name		
	223 Wisner Avenue		
	Address where defendant may be served		
	Orange, Middletown	NY	10940
	County, City	State	Zip Code

Defendant 3:

Name

Address where defendant may be served

County, City

State

Zip Code

II. PLACE OF EMPLOYMENT

The address at which I was employed or sought employment by the defendant(s) is:

Twin Towers Middle School

Name

112 Grand Avenue

Address

Orange, Middletown

NY

10940

County, City

State

Zip Code

III. CAUSE OF ACTION

A. Federal Claims

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

- ☐ **Title VII of the Civil Rights Act of 1964**, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin

The defendant discriminated against me because of my (check only those that apply and explain):

- ☐ race: _____
- ☐ color: _____
- ☐ religion: _____
- ☐ sex: _____
- ☐ national origin: _____

- ☐ **42 U.S.C. § 1981**, for intentional employment discrimination on the basis of race

My race is: _____

- ☐ **Age Discrimination in Employment Act of 1967**, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: _____

- ☒ **Rehabilitation Act of 1973**, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: heart condition

- ☒ **Americans with Disabilities Act of 1990**, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: heart condition

- ☐ **Family and Medical Leave Act of 1993**, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

B. Other Claims

In addition to my federal claims listed above, I assert claims under:

- ☒ **New York State Human Rights Law**, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status
- ☐ **New York City Human Rights Law**, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status
- ☐ Other (may include other relevant federal, state, city, or county law):

IV. STATEMENT OF CLAIM

A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- ☐ did not hire me
- ☐ terminated my employment
- ☐ did not promote me
- ☒ did not accommodate my disability
- ☐ provided me with terms and conditions of employment different from those of similar employees
- ☐ retaliated against me
- ☐ harassed me or created a hostile work environment
- ☐ other (specify): refused to allow me to work remotely

B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

See attached addendum.

As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

V. ADMINISTRATIVE PROCEDURES

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

☒ Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? 11/4/20

☐ No

Have you received a Notice of Right to Sue from the EEOC?

☒ Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? 11/15/22

When did you receive the Notice? 11/15/22

☐ No

VI. RELIEF

The relief I want the court to order is (check only those that apply):

☐ direct the defendant to hire me

☐ direct the defendant to re-employ me

☐ direct the defendant to promote me

☐ direct the defendant to reasonably accommodate my religion

☒ direct the defendant to reasonably accommodate my disability

☒ direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here)

monetary damages for lost salary and other compensation and emotional damages

VII. PLAINTIFF'S CERTIFICATION

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

2/6/23

Dated

Gregory

R.

Plaintiff's Signature

Schwartz

First Name

Middle Initial

Last Name

5374 Sarapointe Drive

Street Address

Sarasota

FL

34232

County, City

State

Zip Code

9173284772

gschwartz23@gmail.com

Telephone Number

Email Address (if available)

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☐ Yes ☒ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

**ADDENDUM TO FEDERAL COMPLAINT FOR GREGORY SCHWARTZ @
2/6/23**

1. I was employed by the Middletown City School District as a tenured social studies teacher from September 2000 until I constructively resigned effective on or about September 1, 2022. I was employed as a teacher at the Twin Towers middle school for the last five years while employed in Middletown.
2. I was always rated Satisfactory or Effective overall each year of my teaching career.
3. I suffer from a disability related to a heart condition. I had a heart attack outside of work in May 2012, and have seen a cardiologist on a regular basis since then.
4. The Middletown public schools closed in late March 2020 due to the COVID-19 virus health pandemic. This caused me to teach remotely for the remainder of the school year until June 2020.
5. I sought a reasonable medical accommodation to continue to teach remotely for the 2020-21 school year. I did so by filling out a medical leave form and submitted it to the District along with a doctor's note from Dr. Bonnie Muller, dated August 3, 2020.
6. On or about August 14, 2020, the district Head of Personnel Rebecca Lloyd informed me that the District Superintendent denied my request for a reasonable accommodation despite my medical note, informing me that it was not making telework accommodations available, and I would have to report to work or take an unpaid leave of absence with no medical or health insurance benefits. The District would not allow me to use my leave time.
7. I made several suggestions for work accommodations to the District Head of Personnel in September 2020, such as teaching students out on medical leave and curriculum writing. The District's Head of Personnel and the Superintendent rejected the suggestions. I therefore was compelled to take the unpaid leave of absence with no medical or leave benefits.
8. In September 2021, I requested another unpaid leave of absence for the entire school year, based on my doctor's assessment that it was still too risky to return due to my heart condition. The District did not offer to accommodate me with any remote teaching for that school year.
9. In September 2022, I decided to resign my position.
10. I believe I have been the victim of disability discrimination based on the District's refusal to grant my reasonable requests for medical accommodation, and its refusal

to use any leave time or accrued benefits during the two year period I was unable to work due to my health conditions.



Civil Rights Division

*Disability Rights Section – 4 Con
950 Pennsylvania Ave, NW
Washington, DC 20530*

November 15, 2022

VIA EMAIL:laura.delaney@nysut.org

Greg Schwartz c/o
Laura Delaney, ESQ
NYS United Teachers-Office of General Counsel
800 Troy-Schenectady Road
Latham, NY 12110

Re: EEOC Charge Against: Enlarged City Schools-District of Middletown
EEOC No.: 520-2021-00099

Dear Mr. Schwartz:

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge, and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you or your attorney has specifically requested this Notice, you are hereby notified that you have the right to institute a civil action against the above-named respondent under Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. 12111, et seq. If you choose to commence a civil action, such suit must be filed in the appropriate court within 90 days of your receipt of this Notice. This should not be taken to mean that the Department has made a judgment as to whether or not your charge is meritorious.

If you or your attorney has any questions concerning this matter or wish to inspect the investigative file, please address your inquiry to: Buffalo Local Office, U.S. Equal Employment Opportunity Commission.

Enclosed you will find a Notice of Rights under the ADA Amendments Act of 2008 (ADAAA). We are forwarding a copy of this Notice of Right to Sue to the Respondent in this case.

Sincerely,
Kristen Clarke
Assistant Attorney General
Civil Rights Division

BY: *Celeste A. Adams-Simmons*
Celeste A. Adams-Simmons
Senior Investigator
Disability Rights Section

Enclosures:
Notice of Rights under the ADAAA

cc: Enlarged City Schools-District of Middletown
EEOC- New York District Office

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.	Charge Presented To:	Agency(ies) Charge No(s):
	<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	520-2021-00099
New York State Division Of Human Rights and EEOC <i>State or local Agency, if any</i>		

Name (indicate Mr., Ms., Mrs.) Greg Schwartz	Home Phone (Incl. Area Code) (917) 328-4772	Date of Birth
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Street Address 58 Post Road, Sloatsburg, NY 10974	City, State and ZIP Code
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Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name ENLARGED CITY SCHOOL DISTRICT MIDDLETOWN	No. Employees, Members 500 or More	Phone No. (Include Area Code) (845) 326-1194
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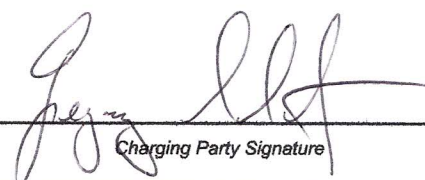
Street Address 223 Wisner Avenue, Middletown, NY 10940	City, State and ZIP Code
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Name	No. Employees, Members	Phone No. (Include Area Code)
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Street Address	City, State and ZIP Code
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DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)	DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 08-14-2020 08-14-2020 <input type="checkbox"/> CONTINUING ACTION
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THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.	NOTARY – When necessary for State and Local Agency Requirements
I declare under penalty of perjury that the above is true and correct. <div style="display: flex; justify-content: space-between;"> <div> 11/4/2020 Date </div> <div>  Charging Party Signature </div> </div>	I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

EEOC Form 5 (11/09)

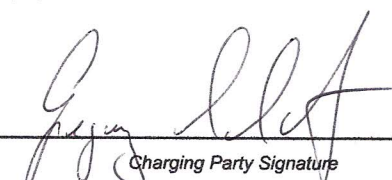
<p align="center">CHARGE OF DISCRIMINATION</p> <p align="center">This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA</p> <p><input checked="" type="checkbox"/> EEOC 520-2021-00099</p>
<p>New York State Division Of Human Rights and EEOC</p> <p><i>State or local Agency, if any</i></p>	

I Greg Schwartz have reason to believe that I was discriminated against based on my disability by my employer ENLARGED CITY SCHOOL DISTRICT MIDDLETOWN. My employment at ENLARGED CITY SCHOOL DISTRICT MIDDLETOWN began in 2000 as a (Social Studies Teacher Grades 7-12) Teacher.

On August 14, 2020, as a result of my medical condition and being in the highest risk category for complications from Covid (according to the CDC), I submitted a note from my doctor stating that I should be allowed to teach/work remotely and a request for special accommodations under the ADA. The district denied my request, simply stating that they are not making remote teaching an opportunity for teachers and the district then gave a list of alternative accommodations including taking an unpaid leave of absence, additional PPE's, additional disinfection materials, or moving me to a classroom that has windows that open. None of those accommodations would keep me safe from an airborne virus, nor would it protect me from having to share a bathroom with over 25 other staff members (some of which have not been wearing masks or employing social distancing within their private lives). I made several suggestions to the head of personnel regarding work that I could do remotely. She said that she would bring my ideas to the superintendent. Whether or not she presented my suggestions I do not know, but she informed me that the superintendent rejected my ideas. As such, I was left two options by the district - take an unpaid leave of absence or report to work and risk my health. Since I was not willing to risk my health, I was left with no alternative but to take an unpaid leave of absence.

I would also like to add that since the school year began, teachers have been told that they are not to clean desks or classrooms and that custodians will not be cleaning classrooms between periods. Thus, the district has gone back on their word. In addition, since the school year began, the district has changed their policy and are now allowing parents to request that their children learn remotely all year.

Recently, I requested a letter of recommendation from my principal so that I can look for tutoring or remote teaching opportunities. The principal stated that she was unwilling to write a recommendation for me. On two occasions I have asked her why she was unwilling to write a recommendation. Not only has the principal refused to tell me why she is unwilling to write a recommendation, but she will not even answer the question. Based on historical precedent of the school district towards me, I firmly believe that this refusal is simply an act of retaliation against me.

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY – When necessary for State and Local Agency Requirements</p>
<p>I declare under penalty of perjury that the above is true and correct.</p> <p align="center">  _____ Date Charging Party Signature </p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p>